IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision:1.5.2015

1. **CM No.3753-C of 2015(O&M)**
In RSA No.575 of 2002

Raghbir ….Appellant

VERSUS

Mool Chand and others ...Applicant-Respondents

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2. **CM No.3756-C of 2015(O&M)**
In RSA No.574 of 2002

Raghbir ….Appellant

VERSUS

Jaswant and others ...Applicant-Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

Present: Mr.Vikram Singh, Advocate for the applicant-respondents .

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HEMANT GUPTA, J.(Oral)

By this order I shall dispose of two Civil Miscellaneous applications i.e. CM No.3753-C of 2015 and CM No.3756-C of 2015 for recall of the compromise inter alia on the ground that the applicants were minor when the appeal was withdrawn on 10.07.2003.

The applicants filed Civil Suit No.1026 of 1997 claiming a decree for permanent injunction on the assertion that they are owners in possession. The defendant-Raghbir in the said suit filed a separate suit for declaration bearing Civil Suit No.358 of 1994 challenging the decree dated 24.07.1993 suffered by Jhabbu Ram, father of the plaintiff and grandfather of the applicants. The learned

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trial Court set aside the decree and decreed the suit of Raghbir whereas suit of the applicants was dismissed. Learned first Appellate Court reversed the findings recorded by learned trial Court and decreed the suit filed by the applicants and dismissed the suit filed by Raghbir.

In the Second Appeals, a written compromise was filed. The appeals were decided on the basis of a written compromise entered upon by mother of the applicants acting as natural guardian of the minors.

In the present applications, the applicants have not disclosed their date of birth and the date on which they attained majority. However, Mr. Vikram Singh disclosed that one of the applicants was born on 24.02.1988. Therefore, they attained majority in the year 2006.

Even if the applicants were minor when their mother entered in to settlement but the applicants could dispute such settlement within three years of their attaining majority. Thus, they cannot be permitted to dispute the compromise after three years of attaining majority. Having failed to dispute the compromise decree within three years after attaining majority, the applications for recall of the compromise is not maintainable and the same are dismissed.

(HEMANT GUPTA)
JUDGE

MAY 1, 2015
'D. Gulati'

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